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Complaint for Employment Discrimination

UNITED STATES DISTRICT COURT for the Western District of Pennsylvania

Case No.

2:21-cv-1037

-- Plaintiff(s) Irwin Delay

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CLERK, U.S. DISTRICT COURT
FOR THE WESTERN DISTRICT
OF PENNSYLVANIA

-- Defendant(s) Dollar Energy Fund

I. Parties to the complaint

A. The Plaintiff(s)

Name Irwin Delay

Street Address

557 Forest Avenue

Apt. 557

City and County Pittsburgh, Allegheny

State and Zip Code Pennsylvania 15202

Telephone Number (412) 766-1395

E-mail Address delayplanet@gmail.com

B. The Defendant(s)

Name Dollar Energy Fund

Street Address

Jackson Lewis P.C.

1001 Liberty Avenue

Suite 1000

City and County Pittsburgh, Allegheny

State and Zip Code Pennsylvania 15222

Telephone Number (412) 323-0404

e-mail address

c. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Dollar Energy Fund

60 Adele Road

Bridgeville, Allegheny

Pennsylvania 15017

II. Basis of Jurisdiction

A. Federal Jurisdiction

1. **The United States District Court for Western Pennsylvania has subject matter jurisdiction over this matter pursuant to 28 U.S.C. 1331, which provides district courts with jurisdiction over civil actions arising under the United States Constitution or laws of the United States.**
2. The United States District Court of Western Pennsylvania has personal jurisdiction over the defendant corporation because the corporation's principle place of business is located in the state of Pennsylvania.
3. **Venue is proper pursuant to 28 U.S.C. 1391(b) because the events giving rise to the allegations in this complaint occurred in the Western District of Pennsylvania.**

B. Statutory Jurisdiction

1. This action is brought for discrimination in employment pursuant to Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).
2. The relevant state statute pertaining to this action is **18 Pa. Cons. Stat. Ann. 9125.**

III. Statement of claim

- A. The discriminatory conduct of which the Plaintiff complain in this action is failure to hire.
- B. The date of the discriminatory action occurred on February 27, 2020.
- C. The facts of the case are as follows:

1. On December 17, 2019, Irwin Delay (hereafter referred to as Plaintiff), a Black visually impaired male, applied for a position as a Customer Service Representative at Dollar Energy Fund (hereafter referred to as Defendant).
2. On January 28, 2020 the Defendant extended a job offer to the Plaintiff.
3. On February 12, 2020 the Defendant initiated an adverse action against the Plaintiff, culminating in the job offer being withdrawn on February 27, 2020.
4. The Defendant stated in a Position Statement to the Equal Employment Opportunity Commission that the job offer to the Plaintiff was rescinded due to criminal convictions which occurred two decades prior.

D. Allegations

The Plaintiff alleges that the Defendant engaged in disparate impact discrimination against the Plaintiff on the basis of race. The Defendant failed to conduct an Individualized Assessment on the Plaintiff as mandated by federal, state, and local laws.

The Plaintiff further alleges the following:

1. The Defendant failed to inform the Plaintiff that past criminal convictions might exclude him from employment.
2. The Defendant failed to give the Plaintiff an opportunity to explain the circumstances surrounding the convictions.
3. The Defendant failed to give the Plaintiff an opportunity to explain why past criminal convictions should not apply to him with respect to the position sought.
4. The Defendant failed to conduct an Individualized Assessment before initiating adverse action against the Plaintiff which is required by federal, state, and local laws.

5. The actions of the Defendant as listed above deprived the Plaintiff of gainful employment.

IV Exhaustion of Administrative Remedies

- A. The Plaintiff filed a charge with the Equal Employment Opportunity Commission on May 14, 2020.
- B. The Equal Employment Opportunity Commission issued a Right to Sue letter to the Plaintiff on May 14, 2021.

V. Relief

The Plaintiff is requesting that the Defendant be required to pay compensatory damages in excess of \$43,610.00 for lost wages by the Plaintiff.

The Plaintiff also claims trial by jury.

VI. Certification

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint:

(1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

August 2, 2021

Signature of Plaintiff X

A handwritten signature in black ink, appearing to read 'Irwin Delay', with a stylized 'X' at the end.

Printed Name of Plaintiff

Irwin Delay, Pro Se